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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,110	03/11/2005	Cheng C. Ko	10555-085	2111
757	7590	05/31/2007	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			TRAN, MINH LOAN	
ART UNIT		PAPER NUMBER		
2826				
MAIL DATE		DELIVERY MODE		
05/31/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/502,110	KO ET AL.	
	Examiner Minh-Loan T. Tran	Art Unit 2826	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 March 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 and 20-27 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 3-8 is/are rejected.
- 7) Claim(s) 2 and 20-27 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

*ckm/ln/mt*  
Minhloan Tran  
Primary Examiner  
Art Unit 2826

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Objections***

1. Claims 20-27 are objected to because of the following informalities:

In claim 20, lines 13 and 14, "at least one grading layer disposed adjacent to the semiconductor absorption layer" should be deleted because it is redundant.

In claim 26, line 13, after "low capacitance", insert --; -- for clarity.

Appropriate correction is required.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 1-8 is withdrawn in view of the newly discovered reference(s) to Watanabe (JP 09-199,753). Rejections based on the newly cited reference(s) follow. This action is not made final.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4 , 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe (JP 09-199,753).

With regard to claim 1, figures 1-3 of Watanabe disclose an avalanche photodiode comprising an n-type semiconductor layer 11 defining a contact area 113;

an n-type semiconductor layer (16, 17) having a p-type diffusion region 110<sub>1</sub> having an area smaller than the area of the n-type semiconductor layer (16,17); an InGaAs/InAlAs multiplication layer 13; an InGaAs absorption layer 15; a p-type contact layer (i.e. portion of layer 17 at the region 19); wherein the p-type diffusion region 110<sub>1</sub> is disposed directly adjacent to the p-type contact layer; and InGaAs absorption layer 15 is disposed between the multiplication layer 13 and the semiconductor layer (16,17) with the p-type diffusion region 110<sub>1</sub>.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (JP 09-199,753).

Figures 1-3 of Watanabe do not disclose the n-type semiconductor layer is InAlAs and the semiconductor layer with the p-type diffusion layer is InAlAs. However, it would have been obvious to one of ordinary skill in the art to form the avalanche photodiode of Watanabe having the n-type semiconductor layer is InAlAs and the semiconductor layer with the p-type diffusion layer is InAlAs in order to improve the lattice mismatched between the semiconductor layers. Further, although figures 1-3 of Watanabe do not teach exact the material of the n-type semiconductor layer and the

semiconductor layer with the p-type diffusion layer as that claimed by Applicant, the material differences are considered obvious design choices and are not patentable unless unobvious or unexpected results are obtained from these changes. It appears that these changes produce no functional differences and therefore would have been obvious. Note *In re Leshin*, 125 USPQ 416, *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Circ. 1990).

***Allowable Subject Matter***

5. Claims 20-27 are allowed.

The prior art of record taken either singly or in combination fails to anticipate or fairly suggest the limitations which the Applicants claim in claims 20-27 in a manner which would warrant a rejection under 35 U.S.C. § 102 or 35 U.S.C. § 103.

There was no prior art found by the examiner that suggested modification or combination with the cited prior art so as to satisfy the combination of the present independent claims 20 and 26; especially, the prior art does not disclose at least one grading layer disposed adjacent to the semiconductor absorption layer.

6. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Loan T. Tran whose telephone number is (571) 272-1922. The examiner can normally be reached on Monday-Friday 9:00 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sue A. Purvis can be reached on (571) 272-1236. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MLT  
05/2007

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Primary Examiner  
Art Unit 2826